

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
Implementation of Section 621(a)(1) of)	
the Cable Communications Policy Act of 1984)	MB Docket No. 05-
311	
as amended by the Cable Television Consumer)	
Protection and Competition Act of 1992)	

**COMMENTS OF the PUBLIC, EDUCATIONAL and GOVERNMENT ACCESS
OVERSIGHT COMMITTEE of METROPOLITAN NASHVILLE**

These Comments are filed by Public, Educational and Governmental (PEG) Access Oversight Committee of Nashville, Davidson County, Tennessee ("Nashville PEG"), in support of the comments filed by the Alliance for Community Media ("Alliance"), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors ("NATOA"), and other national local government organizations. Like the Alliance, Nashville PEG believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access ("PEG") services in our community.

Cable Franchising in Our Community

Community Information

Nashville, Tennessee is a Metropolitan Government with a population of 569,891 according to the 200 census. Our current franchised cable provider is Comcast. Our community's cable franchise agreement was entered on February 1, 1979, with Viacom.

Our Current Franchise

Our current franchise began on April 18, 1995 and expires on April 18, 2010.

Our franchise requires the cable operator to pay a franchise fee to the Metropolitan Nashville, Davidson County in the amount of five percent (5%) of the cable operator's gross revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have one (1) channel devoted to public access; two (2) channels devoted to educational access; and one (1) channel devoted to government access

Our franchise requires that the cable operator support our PEG channels in the following ways:

The cable operator pays \$100,000 annually which supports the operation of the PEG studio. In addition, the cable operator provided an initial grant of \$600,000 that was used by Nashville to construct a studio and purchase necessary equipment for its operation. The cable operator provides fiber linked backhaul services from the PEG studio, the Metropolitan Courthouse, the Metro School Board and the offices of the Government Access Channel.

We originally discussed an I-Net possibility among our schools but then found that the expense of the equipment was more than our school budget could justify, so we have not pursued this with our franchise holder. We do have a requirement for upstreaming from various places within government and school, but no I-Net in its usual configuration at this point.

The cable operator provides severe weather alert messages, which are not required by the franchise agreement.

PEG Access Services

The access service provided by Nashville PEG through its three partners that operate the four access channels is extensive. In our most recently completed fiscal year, the following services were provided:

Government Access -- Metro 3: This is the Government Access channel that is operated by Metropolitan Nashville. Metro 3 has seven full time employees and two part time employees. The following is a summary of the programming provided by Metro 3.

Continued broadcast of Metro Board and Commission meetings including the Metro Council, Board of Education, Civil Service Commission, Benefit Board,

Mayoral Departmental Budget Hearings, Planning Commission, Sports Authority Meetings, Zoning Board Meetings, Budget Finance Committee Meetings, and numerous other meetings of Boards and Commissions. In addition, channel three broadcasts a video bulletin board with text and graphics for public service announcements.

Development of special productions.

Children's programming, including broadcast of shows from the Children's Theater at the Public Library.

Educational programming -- mediation video for City Courts, Conference on African American Culture & History, and the Battle of Nashville 140th Symposium.

Promotional programming -- explanation of the new Public Works trash collection system, awareness of new, potentially life saving services available from the 24 hour Crisis Center, fire prevention awareness, emergency management awareness, and mental health awareness.

Public Events – live coverage of Nashville Christmas parade, re-opening of Civil War historical landmark Fort Negley, Mayor's summit on Children and Youth, and commemoration of Martin Luther King.

Metropolitan Educational Access Corporation (MEAC): MEAC is a not-for-profit corporation that operates two (2) educational channels, MCAtv9 (Music City Arts) and TV QUESTtv10.

MEAC is submitting its own comments, and Nashville PEG incorporates those comments herein.

Community Access Corporation: CAC operates the Community Access channel, it is now in its third decade of service. Original programming is carried 24 hours a day, 7 days a week. Approximately 5,000 citizens of Metro Nashville utilize the PEG studio each year. CAC provides free public service time to approximately 100 Nashville non-profit organizations, churches and schools in the community. It is currently carrying 78 program titles and the demand for airtime increases each month. CAC is working to increase the number of foreign language shows for the thousands of immigrants and refugees who live in Nashville. Channel 19 currently carries two Kurdish language programs, which were used extensively to educate the Kurdish population about the recent elections for the new Iraqi government.

The programs carried on the Community Access channel are produced by citizens of Nashville. Anyone who wishes to produce and broadcast a program may

pay a nominal fee, which entitles them to a video production course. Several citizens who have attended this course and become active with Community Access have gone on to careers in television production.

Conclusions

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in Nashville, Tennessee. As the above information indicates, we are experienced at working with cable providers, the local franchise authority, and community interests to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest.

Local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

Nashville PEG therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising

and should make clear that imposition on a new entrant of PEG Access, consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law.

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of “Community Reinvestment” through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community’s property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

Public, Educational and Governmental
(PEG) Access Oversight Committee of
Nashville, Davidson County,
Tennessee

By: Alan D. Johnson
Chair
215 Second Avenue North
Nashville, TN 37201

cc: Alliance for Community Media, Getup@alliancecm.org